

**STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
BEFORE THE STATE BOUNDARY COMMISSION**

In the matter of:

Boundary Commission
Docket #97-AP-8

The proposed annexation of
territory in Elba Township
to the City of Lapeer.

**SUMMARY OF PROCEEDINGS,
FINDINGS OF FACT AND CONCLUSIONS**

This matter of the proposed annexation of the following territory in Elba Township to the City of Lapeer is described as follows:

Elba Township, Lapeer County, Michigan; LOTS 4, 5, 6, 7, 8, and 9 of ESSEX SUBDIVISION.

SUMMARY OF PROCEEDINGS

- A. On **September 26, 1997**, a petition was filed by Prodo Inc., property owner, asking for the annexation of a portion of Elba Township into the City of Lapeer.
- B. On **February 4, 1998**, an adjudicative meeting of the State Boundary Commission was held in Lansing to determine the legal sufficiency of the petition. The petition was declared to be legally sufficient, pursuant to Public Act 191 of 1968, as amended, and Public Act 279 of 1909, as amended.
- C. On **February 13, 1998**, a public hearing was held in Elba Township to receive testimony given pursuant to Public Act 191 of 1968, as amended.

Findings of Fact

- 1. **The Petitioner stated that annexation of the property was desired because:**
 - Development of the property is contingent upon sanitary sewer and public water services and the City of Lapeer has both of these services adjacent to the property.
 - The Township may be able to provide sanitary sewer service but the provision of public water by the Township is unlikely.

2. **The City did not take a position on the proposed annexation.**
3. **The Township opposed the proposed annexation because:**
 - sanitary sewer could be provided to the area petitioned for annexation pursuant to a 1986 agreement between the City of Lapeer and Elba Township
 - as a member of the Greater Lapeer Utilities Authority, public water could be provided to the area by tapping into the City of Detroit water line at the corner of Oregon and Milville Roads.
 - the petitioner did not contact the Township to attempt to secure sanitary sewer or public water for the property and the Township only heard from the petitioner once via a phone call after the public hearing.
 - the Township and the City are now cooperating on annexation issues after years of battles and because of this cooperation, the Township and the City should be allowed to make their own decisions on annexation issues.

THE COMMISSION FINDS THAT

1. The petitioner requested the annexation to obtain sanitary sewer and public water services from the City of Lapeer to assist him in the sale of the property for a proposed development project.
2. The City and the Township have the capacity and capability to provide the desired municipal services.
3. The best alternative for providing sanitary sewer and public water to the property proposed for annexation cannot be determined at this time because the petitioner has not approached Township officials to discuss the matter.
4. The proposed annexation would have a deleterious effect on the broader community because it would undermine the current cooperative relationship between the City and the Township.

Commissioner VerBurg offered the following findings in dissent:

1. The topographical conditions do not preclude in any substantial way the proposed annexation.

2. The residents of the area proposed for annexation constitute a small proportion of the Township residents and annexation would not have a substantial effect on the overall township population.
3. The proposed annexation does not conflict with any natural boundaries and drainage basins.
4. The proposed annexation of the property would not result in a substantial reduction of tax base or revenues of the Township.
5. The proposed annexation of the property is not inconsistent with present adjacent or nearby land use patterns.
6. The proposed annexation would result in an increase of taxes for the affected parcels but the increase is relatively consistent with the services that the parcels and occupants would receive.
7. The City of Lapeer appears to have the fiscal capacity to accommodate the added demand for services from the parcels and its occupants.
8. The City has a public water line and sanitary sewer line adjacent to the parcel and they are available to the Petitioner at a reasonable cost. Developers should not have to seek out utilities from other local units when a parcel is in close proximity to utilities. The Boundary Commission should make decisions based on the most prudent and cost effective alternatives available.

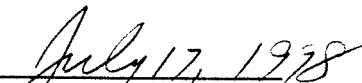
IN CONCLUSION, THE COMMISSION FINDS THAT

1. The Commission has considered all of the testimony and the public record regarding the annexation petition.
2. On **May 7, 1998** at an adjudicative meeting held in Okemos, State Boundary Commissioner Rutledge, and Lapeer County Commissioners Whitney and Raul voted to recommend denial of the annexation, as expanded by the Commission, to the Director of the Department of Consumer & Industry Services and State Boundary Commissioner VerBurg voted against recommending denial of the annexation. The territory proposed for annexation, as expanded by the Commission, is described as follows:

That part of section 1, Town 7 North, Range 9 East , Elba Township, Lapeer County, Michigan, north of the centerline of M-21; west of the East line of said Section1; east of the West 1/8 line of said section and south of the city limits of the City of Lapeer. [1967 PA 288 §560.245]

3. On **July 9, 1998**, at an adjudicative meeting held in Okemos, State Boundary Commissioners VerBurg and Rutledge and Lapeer County Boundary Commissioners Whitney and Raul voted to recommend approval of the Draft Findings of Fact and Conclusions, as amended, and to recommend that the Director of the Department of Consumer & Industry Services issue an Order denying annexation.


Kenneth VerBurg, Chairperson
State Boundary Commission


Date

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FINAL ORDER

IT IS ORDERED THAT this order **denying** the annexation of certain territory in Elba Township into the Home Rule City of Lapeer shall be final and effective **30 days after** the date signed by the Director of the Department of Consumer & Industry Services.

IT IS FURTHER ORDERED THAT this order incorporates the attached Findings of Fact and Conclusions made by the State Boundary Commission and that the State Boundary Commission shall transmit a certified copy of these Findings of Fact and Conclusions to the petitioner and to the clerks of the City of Lapeer, Elba Township, and Lapeer County.



Kathleen M. Wilbur, Director

Michigan Department of Consumer & Industry Services

7/28/98
Date